Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

13th Congress
First Regular Session

House Bill No. 684



Introduced by Representative Abraham Kahlil B. Mitra

EXPLANATORY NOTE

This proposal seeks to establish the Southern Palawan Economic Zone and Freeport Authority (SPEZFA) in the southernmost tip municipalities of Palawan in consonance with the national policy to develop the full economic potential of the countryside without so much intervention and reliance from the national government.

Palawan, a potent gateway to the neighboring Southeast Asian countries, could not fully utilize its natural strategic position in the region because of lack of framework and mechanism to operate as an economic entity. The locales are limited to informal trades or rely on policies and direction from central government in dealing with foreign trade. More often than not, this traditional trade resulted to exchange imbalance that put the locales at the loosing end. Further, the lack of industrial establishments in the province is a stumbling black in developing its vast potential in tourism, mining, fishing, and even forestry.

As such, employment remains a scarce resource and a domestic concern among Palaweños.

Moreover, Filipino capital alone would not be able to satisfy the capital-intensive requirements of its tourism industry. Along this line, foreign investment should be encouraged by establishing the Southern Palawan ECOZONE.

Republic act No. 7916, otherwise known as 'The Special Economic Zone Act of 1995' encourages transformation of the countryside into highly develop agro-industrial, commercial, tourist, banking, investment and financial centers where highly trained workers and efficient services will be available to commercial enterprises within the 'ECOZONE.' The incentive features incorporated in this proposal for foreign and local investors would certainly generate employment and develop the province's economy.

Hence, passage of this bill into law is earnestly sought.

ABRAHAM KAHLIL B. MITRA
Second District, Palawan

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AN ACT

ESTABLISHING THE SOUTHERN PALAWAN SPECIAL ECONOMIC ZONE AND FREEPORT, CREATING FOR THE PURPOSE THE SOUTHERN PALAWAN SPECIAL ECONOMIC ZONE AND FREE PORT AUTHORITY, APPROPRIATING FUNDS THEREFORE

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

Section. 1. *Short Title.* – This Act shall be known as the "Southern Palawan Special Economic Zone and Free Port (SPEZFA) Act of 2003."

Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the state to actively encourage, promote, induce and accelerate a sound and balanced industrial, economic and social development of the country in order to provide jobs to the people especially those in the rural areas, increase productivity and individual and family income, and thereby improve the level and quality of living through the establishment, among others, of special economic zones in suitable and strategic locations in the country through measures that will attract legitimate and productive foreign investments.

Sec. 3. *Creation of the Southern Palawan Special Economic Zone and Free Port.* – In pursuit of the forgoing declared policy and subject to the concurrence of the Municipalities of Southern Palawan affected by the zone, there is herby established a special economic zone and free port in the Municipalities of Balabac, Brooke's Point, and Bataraza, in the Province of Palawan to be known as the Southern Palawan Special Economic Zone and Free Port, hereinafter referred to as Southern Palawan ECOZONE. The special metes and bounds of the Southern Palawan ECOZONE shall be more particularly, defined in the presidential proclamation to be issued for this purpose.

Sec. 4. *Governing Principles.*- The Southern Palawan ECOZONE shall be managed and operated by the Southern Palawan Special Economic Zone and Freeport Authority, herein referred to as SPEZFPA, to be created under Section 6 of this Act, under the following principles: (a) Within the framework and limitations of the Constitution and applicable provisions of the Local Government Code, the Southern Palawan ECOZONE shall be developed into and operated as the decentralized, self-reliant and self sustaining industrial, commercial/trading, agro-industrial, tourist, banking, financial and investment center with suitable residential areas.

(b) The Southern Palawan ECOZONE shall be provided with transportation, telecommunications and other facilities needed to attract legitimate and productive investments, generate linkage industries and employment opportunities for the Province of Palawan and its neighboring towns and cities.

(c) The Southern Palawan ECOZONE may establish mutually beneficial economic relations with other entities or enterprises within the country or, subject to the administrative guidance of the Department of Foreign Affairs (DFA), the Philippine Economic Zone Administration (PEZA) and/or the Department of Trade and Industry (DTI), with foreign entities or enterprises.

(d) Foreign citizens and companies owned by non-Filipinos in whatever proportion may set up enterprises in the Southern Palawan ECOZONE, either by themselves or in joint venture with Filipinos in any sector of industry, international trade, and commerce within the Southern Palawan ECOZONE.

(e) The Southern Palawan ECOZONE shall be operated and managed as a separate customs territory ensuring free flow or movement of goods and capital within, into and exported out of the Southern Palawan ECOZONE premises, as well as provide incentives such as tax and duty-free importations of raw materials and capital equipment. However, exportation or removal of goods from the territory of the Southern Palawan ECOZONE to the other parts of the Philippine territory shall be subject to customs duties under the Tariff and Customs Code of the Philippines, as amended, and the National Internal Revenue Code of 1997, as amended.

(f) The areas comprising the Southern Palawan ECOZONE may be expanded or reduced when necessary. For this purpose, the SPEZFPA, in consultation with the local government units (LGUs), shall have the power to acquire either by purchase,

negotiation or condemnation proceedings, any private lands within or adjacent to the Southern Palawan ECOZONE for the following purposes: (1) consolidation of lands for zone development; (2) acquisition of right-of-way to the Southern Palawan ECOZONE; and (3) the protection of watershed areas and natural assets valuable to the prosperity of the Southern Palawan ECOZONE.

(g) Goods manufactured by the Southern Palawan ECOZONE enterprise shall be made available for the immediate retail sale in the domestic market, subject to the payment of corresponding taxes on raw materials and other regulations that may be formulated by the SPEZFPA, together with Philippine Economic Zones Authority (PEZA), the Bureau of Customs (BOC) and the Department of Trade and Industry (DTI). However, in order to protect the domestic industry, there shall be a negative list of industries that will be drawn up and regularly updated by the PEZA. Enterprises engaged in industries included in such negative list shall not be allowed to sell their products locally.

(h) The defense of the Southern Palawan ECOZONE and the security of its perimeter fence shall be the responsibility of the national government in coordination with the SPEZFPA and the LGUs concerned.

Sec. 5. *Incentives and Obligations.* – Business establishments operating within the Southern Palawan ECOZONE shall be entitled to the following incentives;

(a) Resident Status and Visa. – Any foreign investor who establishes a business enterprise within the Southern Palawan ECOZONE and who maintains a capital investment of not less than One Hundred Fifty Thousand United States Dollars (US $150,000.) shall be granted, along with his or her spouse, dependents and unmarried children below twenty one (21) years old, permanent resident status within the Southern Palawan ECOZONE and freedom of ingress or egress to and from the Southern Palawan ECOZONE without any need of special authorization from the Bureau of Immigration. Working visas renewable every two (2) years shall be issued to foreign executives and foreign technicians with highly specialized skills, which no Filipino possesses, as certified by the Department of Labor and Employment (DOLE). The foregoing is without prejudice to a foreigner acquiring permanent resident status in the Philippines in accordance with applicable immigration, retirement and other related laws.

(50) years counted from the first year after the effectivity of this Act, unless otherwise extended by Congress. It shall be organized within one hundred eighty (180) days after the effectivity of this Act.

Sec. 7. *Principal Office.* – The SPEZFPA shall maintain its principal office in the municipality of Balabac, but it may establish branches within the Philippines and abroad, as may be necessary for the proper conduct of its business.

Sec. 8. *Powers and Functions of SPEZFPA.* – The SPEZFPA shall have the following functions;

(a) To operate, administer manage and develop the Southern Palawan ECOZONE according to the principles and provisions set forth in this Act;

(b) To recommend to the President the issuance of a proclamation to fix and delimit the site of the Southern Palawan ECOZONE;

(c) To register, regulate and supervise the enterprises in the Southern Palawan ECOZONE in an efficient and decentralized manner, subject to existing laws;

(d) To coordinate with the LGUs concerned and exercise general supervision over the development plans, activities and operations of the ecozones;

(e) To regulate and undertake the establishment\s operation and maintenance of utilities, other services, and infrastructure in the Southern Palawan ECOZONE such as, but not limited to Heat, light and power, water supply, telecommunications, transport, toll roads and bridges, port services, etc... and to fix just and reasonable and competitive rates fares, charges and prices thereof;

(f) To construct, acquire, own or lease, operate and maintain on its own or through contracts, franchises, licenses, bulk purchases from the private sector or permits under any of the schemes allowed in Republic Act No. 6957 (Build-Operate-Transfer Law, as amended by Republic Act No. 7718), or joint venture, adequate facilities and infrastructure required or needed for the operation and development of the Southern Palawan ECOZONE, in coordination with appropriate national and local government authorities and conformity with applicable laws thereon;

(g) To operate on its own, either directly or through a license, other tourism related activities, including games and amusements, recreational and sports facilities;

(h) Subject to the approval of the President and the Monetary Board of the BBSP, upon the recommendation of the Department of Finance (DOF), to raise or borrow adequate and necessary funds from local or foreign sources to finance its

projects and programs under this Act and for that purpose, to issue bonds, promissory notes and other forms of securities, and to secure the same by a guarantee, pledge, mortgage, deed of trust or an assignment of all or part of its property or assets;

(i) To provide security for the Southern Palawan ECOZONE in coordination with the national and local governments. Military forces sent by the national government for the purpose of defense shall not interfere in the internal affairs of the ecozone and expenditures for these military forces shall be borne by the national government. For this purpose, the SPEZFPA may establish and maintain security forces and firefighting capability or hire others to provide the same;

(j) To protect, preserve, maintain, and develop the virgin forests, beaches coral and coral reefs and maintain ecological balance within the Southern Palawan ECOZONE;

(k) To create, operate and/or contract to operate such functional units or offices of the SPEZFPA as it may deem necessary;

(l) To adopt, alter and use a corporate seal; make contracts, leases, own or otherwise dispose of personal or real property; sue and be sued; and otherwise carry out its functions and duties as provided for in this Act;

(m) To issue certificates of origin for products manufactured or processed in the Southern Palawan ECOZONE in accordance with the prevailing rules of origin and the pertinent regulations of the PEZA, the DTI and/or the DOF;

(n) To issue working visas renewable every two (2) years to foreign executives and technicians with highly specialized skills which no possesses, as certified by the DOLE.

(o) To report to the Bureau of Immigration the names of the foreigners who have been granted permanent resident status and working visas within thirty (30) days after issuance of such grant;

(p) To exercise such powers as may be essential, necessary or incidental to the powers granted to it hereunder, as well as those that shall enable it to carry out, implement and accomplish the purposes, objectives and policies of this Act; and

(q) To issue rules and regulations consistent with the provisions of this Act as may be necessary to accomplish and implement the purposes, objectives, and policies provided herein.

Sec. 9. *Exemptions from Taxes, Duties, and Other Fees.* – the SPEZFPA is hereby declared exempt from the payment of all taxes, duties, fees imposts, charges, costs and service fees in any court or administrative proceedings in which it ma be a party.

The forgoing exemptions may, however, be entirely or partially lifted by the President of the Philippines upon the recommendation of the Secretary of Finance, not earlier than five (5) years from the effectivity of this Act, if the President shall find the SPEZFPA to be self sustaining and financially capable by then to pay such taxes, customs, duties fees and other charges after providing for debt service requirements of the SPEZFA and of its projected capital and operating expenditures.

Sec. 10. *Board of Directors of the SPEZFPA.* – The powers of the SPEZFPA shall be vested in and exercised by a board of directors, hereinafter referred to as the Board, which shall be composed of the following;

(a) The chair who shall, at the same time be the administrator of the SPEZFPA;

(b) The Vice Chairman who shall come from among the members of the Board;

(c) Members consisting of:

(1) The congressional representative of the district covering the site of the Southern Palawan ECOZONE;

(2) One (1) representative of the Provincial Government of Palawan;

(3) One (1) representative from the domestic investors;

(4) One (1) representative from the foreign investors; and

(5) Two (2) representatives from workers working in the Southern Palawan ECOZONE.

The congressional representative and the representative of the Provincial Government shall serve as *ex officio* members of the Board, whose tem in the Board corresponds to their terms as elected officials.

The Chairman and the members of the Board, except the *ex officio* members shall be appointed by the President of the Philippines to serve for six (6) years, unless sooner removed for cause, dies, or resigns voluntarily. Incase of death, resignation or removal for cause, the replacement shall serve only the unused portion of the term.

Except for the representatives of the business and labor sectors, no person shall be appointed by the President of the Philippines as a member of the Board unless he is a Filipino citizen, of good moral character, of proven probity and integrity, and a degree-

holder in any of the following fields: economics, business, public administration, law, management or their equivalent and with at least ten (10) years of relevant working experience preferably in the field of management or public administration.

The members of the Board shall receive *per diem* at rate to be determined by the Department of Budget and Management in accordance with existing rules and regulations. *Provided, however,* That the total *per diem* collected each month shall not exceed the equivalent *per diem* for four (4) meetings. Unless and until the President of the Philippines has a higher *per diem* for the members of the Board, such *per diem* shall not be more than Ten Thousand pesos (P10,000.00) for every Board meeting.

Sec. 11. *Powers and Duties of the Chairman-Administrator.* – The Chairman-Administrator shall have the following powers and duties:

(a) To direct and manage the affairs of the SPEZFPA in accordance with the policies of the Board;

(b) To establish the internal organization of the SPEZFPA under such conditions that the Board may prescribe;

(c) To submit an annual budget and necessary supplemental budget to the Board for its approval;

(d) To submit within thirty (30) days after the close of each fiscal year an annual report to the Board and such other reports as may be required;

(e) To submit to the board for its approval, policies, systems, procedures, rules and regulations that are essential to the operation of the Southern Palawan ECOZONE;

(f) To create a mechanism in coordination with relevant agencies for the promotion of industrial peace, the protection of the environment and the advancement of the quality of life in the Southern Palawan ECOZONE; and

(g) To perform such other duties as may be assigned to him by the Board or which are necessary or incidental to his office.

Sec. 12. *Personnel.* – The Board of Directors of the SPEZFPA shall provide for an organization and staff of its officers and employees. Upon the recommendation of the chairman-administrator, with the approval of the secretary of Trade and Industry, the Board shall appoint and fix the remuneration and other emoluments of its officers and employees in accordance with existing laws on compensation and position classification; *Provided,* that the Board shall exclusive and final authority to promote, transfer, assign or re assign officers of the SPEZFPA, any provision of existing law to

the contrary notwithstanding: *Provided, further,* That the chairman-administrator may carry out the removal of such officers and employees.

The officers and employees of the SPEZFPA, including all the members of the Board, shall not engage, directly or indirectly, in partisan activities nor take part in any election, except to vote.

No officer of the SPEZFPA, subject to civil service laws and regulations, shall be removed or suspended except for cause, as provided by law.

Sec. 13. *Applicability Clause.* – The provisions of Sections 30 to 492 of Republic Act No. 7916, as amended, on leases of lands and buildings land conversion, shipping, and shipping register, protection of environment termination of business enterprises, one-stop shop center and on industrial harmony in the ecozones, shall apply to the Southern Palawan ECOZONE.

Sec. 14. *Capitalization.* – The SPEZFPA shall have an authorized capital stock of two billion (2,000,000,000) no-par shares with a minimum issue of ten pesos (P10.00) each, the majority shares of which, shall be subscribed and paid for by the national government. The Board of Directors of the SPEZFPA, with the written concurrence of the Secretary of Finance, may sell shares representing not more than forty *per centum* (40%) of the capital stock of the SPEZFPA to the general public under such policy as the Board and the Secretary of Finance may determine. The national government and the LGUs shall in no case own less than sixty *per centum* (60%) of the total issued and outstanding capital of the SPEZFPA

The amount necessary to subscribe and pay for the shares of the national government to the capital stock of the SPEZFPA shall be included in the annual General Appropriations Act.

Sec. 15. *Supervision and Coordination of Development Plans.* – For purposes of policy direction and coordination, the Southern Palawan ECOZONE shall be under the direct control and supervision of the Office of the President.

Sec. 16. *Relationship with the Regional Development Council.* – The SPEZFPA shall determine the development goals for the Southern Palawan ECOZONE within the framework of national development plans, policies, and goals. The administrator shall, upon approval by the Board, submit the Southern Palawan ECOZONE plans, programs and projects to the regional Development Council for inclusion and inputs to the overall regional development plan.

Sec. 17. *Relationship with Local Government Units.* – Except as herein provided, the LGUs comprising the Southern Palawan ECOZONE shall retain their basic autonomy and identity. The municipalities of Balabac, Bataraza and Brooke's Point shall operate and function in accordance with the Local Government Code of 1991. Incase of any conflict between the SPEZFPA and the Province of Palawan on matters affecting the Southern Palawan ECOZONE other than defense and security matters, the decision of the SPEZFPA shall prevail.

Sec. 18. *Interpretation/Construction.* – The powers authorities and functions that are vested in the SPEZFPA are intended to establish decentralization of government functions and authority and promote an efficient and effective working relationship among the Southern Palawan ECOZONE, the central government and the LGUs.

Sec. 19. *Auditing.*- the Commission on Audit shall appoint a representative who shall be a full time auditor of the SPEZFPA and assign such number of personnel as may be necessary to assist said representative in the performance of his/her duties. The salaries and emoluments of the assigned auditor and personnel shall be in accordance with pertinent laws, rules and regulations.

Sec. 20. *Separability Clause. – If any provision of this Act shall be held unconstitutional or invalid, the other portions not otherwise affected shall remain in full force and effect.*

Sec. 21. *Repealing Clause.* – All laws, executive orders or issuances, or any part thereof, which are inconsistent herewith, are hereby repealed or amended accordingly.

Approved,